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EXAMINER

DUFFIELD, JEREMY S

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,358	<b>Applicant(s)</b> KARAOGUZ ET AL.	
	<b>Examiner</b> JEREMY DUFFIELD	<b>Art Unit</b> 2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 01 April 2009 have been fully considered but they are not persuasive.

In response to applicant's arguments that the given references do not teach "Receiving A Media...The First User", Page 13, lines 1-3, the examiner respectfully disagrees. Ellis teaches a personal television programming system in which a contributing user is able to create television programming and store it on storage equipment at his/her location (Col. 5, lines 23-44; Col. 6, lines 1-23). A second user, e.g. a viewer, is able to request the contributing user's programming at any time by selecting the desired program from a user interface. This requested program is then delivered from the storage equipment located at the contributing user's premises to the viewer (Col. 10, lines 8-34). Therefore, the combination of the references teaches the aforementioned limitation.

In response to applicant's arguments that the given references do not teach "Notification Of Consumption Based On A Match", Page 15, line 1, the examiner respectfully disagrees. Finseth teaches a user can select the types of viewer preference information to share with other users. The viewer preference information includes category descriptors, television program names, etc. The users can also select the types of information they want to receive from other users. Ellis teaches that a user creates and stores personal programming at the

user's set-top box or PC and, in response to a user request, delivers the media to the requesting user via a dedicated channel (Col. 3, lines 18-30; Col. 5, lines 23-44; Col. 10, lines 9-33). When a first user requests media from a second user and subsequently views the media specific characteristics of the requested/viewed media are stored at the first user's receiver. The first user is then able to "match" characteristics from the viewed media with preferred characteristics selected by the first user. These "matched" characteristics are then transmitted to the second user. The second user will not be notified of any viewing by the first user if the first user does not view any of the second user's media, e.g. the user-selected characteristics do not match any of the predefined characteristics, and/or if the second user does not accept the first user's viewing preference information. Combining the two references allows one of ordinary skill in the art to realize a system in which a first user requests programming from a second user, and notifying the first user of any television programs, including any requested programs, that were viewed by the second user via the viewer preference information sharing process. Note: Examiner realizes the difference between automatically notifying the second user of the consumption of his/her media and storing the record of the consumption of the media and then notifying the second user. The claims are broad enough to encompass both methods of notification.

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2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-15, 24, and 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finseth et al. (US 6,813,775) in view of Ellis (US 6,774,926).

Regarding claim 1, Finseth teaches accepting from a first user information identifying at least a second user, i.e. the ability of a 1<sup>st</sup> user to designate a 2<sup>nd</sup> user to which viewer preference profiles may be sent (Fig.7 & 9; Abstract; col.1, lines 44-46; col.2, lines 6-7; col.12, lines 24-28; col.15, lines 6-11);

receiving from the first user at least one user-selected characteristic associated with media, i.e. the selection of specific media characteristics associated with media, such as that found on a conventional program guide 88A, to be included in viewing preference information to be shared with a 2nd user (col.9, lines 28-32; col.10, lines 25-35; col.12, lines 30-41; col. 15, lines 52-65);

processing a media request from the first user via a communication network, the requested media having a pre-defined set of characteristics, i.e. the selections by a 1<sup>st</sup> user, via a receiver 64, of media programs - whereby each media program selected has characterizing information from the associated program guide (col.10, lines 13-24);

notifying the at least one second user, via the communication network, of the consumption of the requested media by the first user, if the pre-defined set of characteristics for the requested media matches the at least one user-selected

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characteristic, i.e. the delivery of viewing preference information from a 1<sup>st</sup> user to a 2<sup>nd</sup> user, via telephone lines or the Internet, only if the characterizing information from the associated program guide matches that of the media characteristics chosen by a 1<sup>st</sup> user to be sent to a 2<sup>nd</sup> user and the 2<sup>nd</sup> user accepts the viewing preference information (col.12, lines 30-45; Col. 13, lines 1-28; col.15, lines 52-65);

refraining from notifying the at least second user, via the communication network, of the consumption of the requested media by the first user, if the pre-defined set of characteristics for the requested media does not match the at least one user-selected characteristic, i.e. the non-transmittal or non-acceptance of the portion of the viewing preference information in which the characterizing information from the associated program guide does not match that of the media characteristics chosen by a 1<sup>st</sup> user (col.12, lines 30-45; Col. 13, lines 1-28; col.15, lines 52-65).

Finseth does not clearly teach receiving a media request from the first user via a communication network, wherein the media request relates to media to be sent directly via the communication network from a second user to the first user.

Ellis teaches receiving a media request from a first user via a communication network, wherein the media request relates to media to be sent directly via the communication network from a second user to the first user, i.e. a user creates and stores personal programming at the user's set-top box or PC and, in response to a user's request, delivers the media to the requesting user via a dedicated channel (Col. 3, lines 18-30; Col. 5, lines 23-44; Col. 10, lines 9-33). The requesting user selects the media from a program guide (Col. 10, lines 9-33).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Finseth to include receiving a media request from the first user via a communication network, wherein the media request relates to media to be sent directly via the communication network from a second user to the first user, as taught by Ellis, for the purpose of supporting the creation and distribution of video programming created by individual contributors (Ellis-Col. 1, lines 19-22).

Regarding claim 3, Finseth in view of Ellis teaches wherein the communication network comprises one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure, i.e. the transmittal of viewing preference information from a 1<sup>st</sup> user to a 2<sup>nd</sup> user via telephone lines or the Internet (Finseth-col.12, lines 42-45; Ellis-Col. 3, lines 5-18).

Regarding claim 4, Finseth in view of Ellis teaches wherein the communication network is the Internet (Finseth-col.12, lines 42-45; Ellis-Col. 3, lines 5-18).

Regarding claim 5, Finseth in view of Ellis teaches wherein the requested media comprises one or more of audio, a still image, video, real time video, and/or data (Finseth-col.7, lines 19-20 & 54-55; col.10, lines 16-18; Ellis-Col. 10, lines 9-33).

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Regarding claim 6, Finseth in view of Ellis teaches wherein consumption comprises one or more of playing audio, displaying a still image, displaying video, and/or displaying data (Finseth-Fig.3; col.7, lines 19-27 & 64-67; col.8, lines 49-52; Ellis-Col. 10, lines 9-33).

Regarding claim 7, Finseth in view of Ellis teaches wherein the information identifying at least a second user comprises at least one or more of a legal name, a given name, a screen name, a user identifier, a network identifier, an Internet protocol (IP) address, a media access control (MAC) address, and/or electronic serial number, i.e. the use of a name, telephone number, or internet address in designating a 2nd user to receive viewing preference information from a 1st user (Finseth-Fig.7 & 9; col.12, lines 25-29; col.15, lines 6-11).

Regarding claim 8, Finseth in view of Ellis teaches wherein the at least one user-selected characteristic comprises one or more of a title keyword, a subject keyword, a time period, a genre, an artist, a media channel type, a mode and/or a language, i.e. the ability of a 1<sup>st</sup> user to specifically select contents from its history table to be sent to a 2nd user, where contents consist of information such as genre, title keyword, keywords, etc. (Finseth-col.10, lines 25-36; col. 51-65; Ellis-Col. 10, lines 9-33).

Regarding claim 9, Finseth in view of Ellis teaches wherein the notifying comprises transmitting a message via the communication network, i.e. the transmittal of



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viewing preference information from a 1st user to a 2nd user via telephone lines or the Internet (Finseth-col.12, lines 42-45).

Regarding claim 10, Finseth in view of Ellis teaches keeping a record of the notifying; and the record being used by the second user to provide one or both of services and/or incentives to the first user (Finseth-Col. 11, lines 20-42; Col. 13, lines 1-18), Note: the second user stores the first user's viewing preference information and can subsequently share his/her viewing preference information with the first user which can improve advertising and conditional channel content targeting for the first user.

Claim 11 is met as previously discussed with respect to Claim 1. In addition, Finseth et al. teach the identification of individual users interacting with receiver, 64 (col.11, lines 2-11).

Claim 12 is met as previously discussed with respect to Claim 5.

Claim 13 is met as previously discussed with respect to Claim 8.

Claim 14 is met as previously discussed with respect to Claim 8.

Claim 15 is met as previously discussed with respect to Claim 3.

Claim 24 is met as previously discussed with respect to Claim 1.

Claim 26 is met as previously discussed with respect to Claim 3.

Claim 27 is met as previously discussed with respect to Claim 4.

Claim 28 is met as previously discussed with respect to Claim 5.

Claim 29 is met as previously discussed with respect to Claim 6.

Claim 30 is met as previously discussed with respect to Claim 8.

Claim 31 is met as previously discussed with respect to Claim 9.

Claim 32 is met as previously discussed with respect to Claim 10.

4. Claims 2 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finseth in view of Ellis and further in view of Lu (US 7,065,778).

Regarding claim 2, Finseth in view of Ellis teaches all elements of claim 1.

Finseth in view of Ellis does not clearly teach wherein each of the first user and the at least a second user are associated with one or more of an Internet protocol (IP) address, a media access control (MAC) address, and/or an electronic serial number (ESN).

Lu teaches each of a first user and a second user are associated with one or more of an Internet protocol (IP) address, a media access control (MAC) address, and/or an electronic serial number (ESN) (Col.10, lines 10-15, 31-38).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Finseth in view of Ellis to include each of the first

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user and the at least a second user are associated with one or more of an Internet protocol (IP) address, a media access control (MAC) address, and/or an electronic serial number (ESN), as taught by Lu, for the purpose of utilizing a well-known and establishing method of identifying a device for communication.

Claim 25 is met as previously discussed with respect to Claim 2.

5. Claims 16-23 and 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu in view of Finseth and further in view of Ellis.

Regarding claim 16, Lu teaches the system comprising: a first storage, at a first location, having an associated first network address; a first set top box circuitry at the first location, the first set top box circuitry communicatively coupled to the first storage to support consumption of media by a first user, i.e. the use of a personalized video recorder (PVR) 200 at a first location, having a usable mass data storage device 218, a display device 212 for displaying video and/or graphics, and an associated IP address (Fig.2 & 3; col.5, lines 26-35; col.6, lines 17-21; col.10, lines 10-15);

a second storage, at a second location, having a second network address; a second set top box circuitry at the second location, the second set top box circuitry communicatively coupled to the second storage to support consumption of media by a second user, i.e. the use of a 2<sup>nd</sup> personalized video recorder (PVR) 200A/B at a second location having similar components as that of PVR 200, as discussed above;

at least one media characteristic associated with the second user, i.e. the association of a second PVR 200A/B with the television shows being broadcasted by a corresponding television content provider, television head-end 308, via an electronic programming guide (Fig.3; col.6, lines 43-54);

server software that receives a request that identifies at least the associated first network address and media having at least one pre-defined characteristic, and that notifies, via a communication network, the associated second network address if the at least one media characteristic matches the at least one pre-defined characteristic, i.e. the use of a PVR 200, having an associated IP address, in requesting a specific television show via an EPG server computer 304, and the subsequent notification to an appropriate PVR 200A/B to which the requested television program will be broadcasted to in the event the specific requested television show matches the television programs being broadcasted to PVR 200A/B (Fig.3 & 5; col.col.6, lines 32-55; col.9, lines 8-20).

Lu does not clearly teach the first user directly requests media from the second user.

Additionally, in the same field of endeavor, Finseth teaches the transmittal of a plurality of information, via a programming guide, including a program title, channel names, channel numbers, & icons (col.9, lines 28-32; col.10, lines 25-35).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have combined the system taught by Lu with that of the system taught by Finseth in order to provide a suitable manner in which to associate media programs being transmitted to a plurality of users by way of the programming guide

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information contained within it. A person of ordinary skill in the art would have been motivated to have made such a modification to the Lu et al. reference in order to allow for a more accurate method of determining the media programs being presented to a plurality of users.

Lu in view of Finseth does not clearly teach the first user directly requests media from the second user.

Ellis teaches receiving a direct request, from a first user for media from the second user, i.e. a user creates and stores personal programming at the user's set-top box, PC, PVR, etc and, in response to a user's request, delivers the media to the requesting user via a dedicated channel (Col. 3, lines 18-30; Col. 5, lines 23-44; Col. 10, lines 9-33). The requesting user selects the media from a program guide (Col. 10, lines 9-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lu in view of Finseth to include server software that receives a direct request, from the first user for media from the second user, as taught by Ellis, for the purpose of supporting the creation and distribution of video programming created by individual contributors (Ellis-Col. 1, lines 19-22).

Regarding claim 17, Lu in view of Finseth in view of Ellis teaches wherein the requested media comprises one or more of audio, a still image, video, real time video, and/or data (Lu-col.7, lines 25-28; col.11, lines 4-7; Finseth-col.7, lines 19-20 & 54-55; col.10, lines 16-18; Ellis-Col. 10, lines 9-33).

Regarding claim 18, Lu in view of Finseth in view of Ellis teaches wherein the associated first and second network addresses are one of an Internet protocol (IP) address, a media access control (MAC) address, or an electronic serial number (ESN) (Lu-col.10, lines 10-15,31-38).

Regarding claim 19, Lu in view of Finseth in view of Ellis teaches wherein consumption comprises one or more of playing audio, displaying a still image, displaying video and/or displaying data (Lu-Fig.2; col.6, lines 21-28; Finseth-Fig.3; col.7, lines 19-27 & 64-67; col.8, lines 49-52; Ellis-Col. 10, lines 9-33).

Regarding claim 20, Lu in view of Finseth in view of Ellis teaches wherein the communication network comprises one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure (Lu-col.6, line 62 - col.7, line 8; Finseth-col.12, lines 42-45; Ellis-Col. 3, lines 5-18).

Regarding claim 21, Lu in view of Finseth in view of Ellis teaches wherein the server software is at a location separate from the first location and the second location, i.e. an EPG server 304 at a location separate from the first location, PVR 200 and the second location, PVR 200A/B (Lu-Fig.3; col.6, lines 33-50; Ellis-Col. 10, lines 9-33).

Regarding claim 22, Lu in view of Finseth in view of Ellis teaches wherein the at least one media characteristic comprises one or more of a title keyword, a subject keyword, a genre, an artist, a time period, a media channel type, a mode, and/or a language, i.e. the information included in an EPG, for the media programs being transmitted to a plurality of 2nd users as in the system presented by Lu, can consist of program titles, channel names, channel numbers, channel icons, etc. (Lu-col.9, lines 28-32; Finseth-col.10, lines 25-36; col. 51-65; Ellis-Col. 10, lines 9-33).

Regarding claim 23, Lu in view of Finseth in view of Ellis teaches wherein the at least one predefined characteristic comprises one or more of a title keyword, a subject keyword, a genre, an artist, a time period, a media channel type, a mode, and/or a language, i.e. the information included in an EPG, such as that presented to a first user for the requesting of a specific television program as in the system presented by Lu, can consist of program titles, channel names, channel numbers, channel icons, etc. (Lu-col.9, lines 28-32; Finseth-col.10, lines 25-36; col. 51-65; Ellis-Col. 10, lines 9-33).

Claim 33 is met as previously discussed with respect to Claim 16.

Claim 34 is met as previously discussed with respect to Claim 17.

Claim 35 is met as previously discussed with respect to Claim 19.

Claim 36 is met as previously discussed with respect to Claim 20.

Claim 37 is met as previously discussed with respect to Claim 21.

Claim 38 is met as previously discussed with respect to Claim 22.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEREMY DUFFIELD whose telephone number is (571)270-1643. The examiner can normally be reached on Mon.-Thurs. 8:00 A.M.-5:30 P.M. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

21 May 2009

JSD

/Dominic D Saltarelli/

Primary Examiner, Art Unit 2421